



**U.S. Citizenship
and Immigration
Services**

(b)(6)

DATE: **AUG 23 2013** OFFICE: LOS ANGELES, CALIFORNIA

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(h) of the Immigration and Nationality Act, 8 U.S.C. § 1182(h).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Handwritten signature of Ron Rosenberg in black ink.

Ron Rosenberg
Chief, Administrative Appeals Office

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DISCUSSION: The Field Office Director, Los Angeles, California, denied the waiver application. The applicant appealed the Field Office Director's decision, and the Administrative Appeals Office (AAO) dismissed the appeal. The applicant filed a motion to reopen and reconsider the AAO's decision. The AAO granted the motion and affirmed its previous decision. The matter is now before the AAO on subsequent motion. The motion will be dismissed.

The applicant is a native and citizen of the People's Republic of China (PRC) who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured fraudulent documentation to the United States through willful misrepresentation and presenting the documentation to receive an immigration benefit. The Field Office Director concluded the applicant failed to establish extreme hardship would be imposed upon a qualifying relative, and denied his Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. The AAO dismissed the applicant's appeal and affirmed the Field Office Director's decision. The AAO also affirmed its previous decision upon granting the applicant's motion to reopen and reconsider a decision.

On motion, the applicant contends he found the original I-94 card issued to him upon arrival to the United States in 1999, and he apologizes for having been in the United States illegally and for having procured an I-94 card bearing a counterfeit I-551 stamp. The applicant also contends his qualifying relative spouse will suffer extreme and unusual hardship because of his inadmissibility.

A motion to reopen must state the new facts to be proved and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). In support of his motion to reopen and reconsider a decision, the applicant has submitted additional documentary evidence; a statement of support and the copy of an I-94 Card which indicates an admission date of April 8, 1999. The AAO notes the additional documentary evidence does not offer new facts concerning the applicant's inadmissibility or the hardship his qualifying relative would experience because of his inadmissibility. Also, the applicant's motion does not allege any incorrect application of law or Service policy or any indication that the Service made a decision that was incorrect based on the evidence of record at the time of the initial decision.

The regulation at 8 C.F.R. § 103.5(a)(4) provides:

Processing motions in proceedings before the Service.- A motion that does not meet applicable requirements shall be dismissed. Where a motion to reopen is granted, the proceeding shall be reopened. The notice and any favorable decision may be combined.

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Inasmuch as the additional documentation does not offer new facts and the applicant has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the motion to reopen and reconsider a decision must be dismissed.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The motion is dismissed.